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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 WILLIAM W. HAMILTON,  
11 Plaintiff,

12 v.

13 CITY OF OLYMPIA, *et al.*,  
14 Defendants.

Case No. C08-5315RJB

ORDER ON PLAINTIFF'S  
MOTION FOR LEAVE TO  
AMEND COMPLAINT

15 This matter comes before the Court on the Plaintiff's Motion for Leave to Amend Complaint. Dkt.  
16 17. The Court has considered the pleadings filed in support of and in opposition to the motion, and the  
17 remainder of the file herein.

18 **I. FACTS**

19 On May 14, 2008, Plaintiff filed the Complaint in this matter, alleging that while participating in a  
20 November 10, 2007, political demonstration, Defendant John Doe police officer sprayed him with pepper  
21 spray. Dkt. 1. Plaintiff alleges that he participated in a political demonstration the next day, and at that  
22 demonstration, Defendant John Doe police officers clubbed him with batons, and then shot him with  
23 pepper bullets. *Id.* Plaintiff claims his constitutional rights were violated, that the Defendants were  
24 negligent and committed battery. *Id.*

25 Plaintiff now moves to amend his Complaint to name the individual officers he alleges were  
26 involved in this incident. Dkt. 17. Plaintiff states that the parties have engaged in discovery, and he has  
27 identified the parties he believes engaged in the conduct of which he complains. *Id.* Plaintiff has filed a  
28 proposed Amended Complaint. Dkt. 17-5. Defendants have not filed a response.

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## II. DISCUSSION

Fed. R. Civ. P. 15(a)(2) provides that “a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.” “Five factors are taken into account to assess the propriety of a motion for leave to amend: bad faith, undue delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff has previously amended the complaint. Futility alone can justify the denial of a motion to amend.” *Johnson v. Buckley*, 356 F.3d 1067, 1077 (9th Cir. 2004)(*internal quotations and citations omitted*).


Plaintiff's Motion for Leave to Amend his Complaint (Dkt. 17) should be granted. Plaintiff has not acted in bad faith or with undue delay. There is no showing that the City of Olympia and the named Defendants will suffer prejudice from the amendment. The City has been aware of this matter for months and aware that some of its police officers were likely going to be named as parties. Dkt. 15. Similarly, there is no showing that Plaintiff's amendment is futile. Plaintiff has not previously amended the Complaint. Plaintiff's Motion for Leave to Amend Complaint (Dkt. 17) should be granted.

## III. ORDER

Therefore, it is hereby, **ORDERED** that:

- The Plaintiff's Motion for Leave to Amend Complaint (Dkt. 17) is **GRANTED**;
- The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any party appearing *pro se* at said party's last known address.

DATED this 17<sup>th</sup> day of March, 2009.

  
ROBERT J. BRYAN  
United States District Judge